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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,223	07/06/2001	Monique F. Craig	CRAIG-I	6284
7590 07/14/2004				
MONIQUE F. CRAIG				
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PASO ROBLES, CA 93446				
			EXAMINER	
			CHOOBIN, BARRY	
		ART UNIT	PAPER NUMBER	
		2625		

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/900,223

Applicant(s)

CRAIG

Examiner

Barry Choobin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baur et al (US 5,319,918) in view of Ellis (US 5,412,420).

As to claim 1, Baur et al disclose a method of evaluating the conformation of an animal's hoof and lower leg comprising the steps of: (a) receiving digital images of the hoof and/or lower leg (column 3, lines 49-54); (b) computing measurements (angles, ratios, lengths, etc) within those images (column 3, lines 49-54 wherein the dimensions are fed in to memory); however, Baur et al does not expressly disclose using these measurements to make comparisons between animals, or the same animal a different points in time.

But Ellis discloses a means for comparing the three-dimensional and intensity image data received from the animal to all three-dimensional and intensity image data stored during a predetermined previous amount of time and displaying an error indication if the comparing finds a match between the three-dimensional and intensity image data and previously stored three-dimensional and intensity image data for at least one

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previously measured animal, thereby indicating the animal has been previously measured during the predetermined previous amount of time (column 20, lines 27-37).

Ellis and Baur et al are combinable because they both deal with measuring the hoof of an animal.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Baur et al with the comparison means of Ellis in order to indicate whether an animal has been previously subject to measurement.

The suggestion/motivation for doing so would have been to improve the speed and accuracy of measuring animals (column 1, lines 33-36 of Ellis).

Therefore, it would have been obvious to combine Ellis and Baur et al.

As to claim 2, Ellis discloses the user is guided to pick certain key `markers` within the image, and (b) biomechanical parameters are computed from the picked `markers` (column 2, lines 42-50).

As to claim 3, Ellis discloses the resulting measurements are used to compute a "score" which specifies how the particular animal conforms to some ideal (column 5, lines 51-59).

As to claim 4, Ellis discloses scale markers, visible in the image, are used to allow accurate scaling of length measurements (refer for example to Fig.5 and Fig.7).

As to claim 5, Ellis discloses the types of images used are photographs. Although, both Ellis and Baur et al do not expressly disclose radiographs. The Examiner takes Official Notice. Since this feature is well known in the art and is not patently distinct.

Allowable Subject Matter

3. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry Choobin whose telephone number is 703-306-5787. The examiner can normally be reached on M-F 7:30 AM to 18:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 703-308-5246. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Barry Choobin

July 7, 2004



BHAVESH M. MEHTA
SUPERVISORY PATENT EXAMINER
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